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| APPLICATION NO.  | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO.           | CONFIRMATION NO.       |
|--|-------------|----------------------|-------------------------------|------------------------|
| 10/562,473   | 08/18/2006  | Geert Heyse          | 31118/DY0303                  | 6187                   |
| 4743 7590 10/23/2009<br>MARSHALL, GERSTEIN & BORUN LLP<br>233 SOUTH WACKER DRIVE<br>6300 SEARS TOWER<br>CHICAGO, IL 60606-6357 |             |                      | EXAMINER<br>MARINI, MATTHEW G |                        |
|  |             |                      | ART UNIT<br>2854              | PAPER NUMBER           |
|  |             |                      | MAIL DATE<br>10/23/2009       | DELIVERY MODE<br>PAPER |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

10/562,473

**Applicant(s)**

HEYSE ET AL.

**Examiner**

MATTHEW G. MARINI

**Art Unit**

2854

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 23 July 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 48-54, 57-59 and 66-68 is/are pending in the application.
- 4a) Of the above claim(s) 59 and 66-68 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 48-54, 57 and 58 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 December 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 12/27/05, 10/20/06, 2/20/09, 3/6/09, 10/7/09
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Election/Restrictions***

Applicant's election with traverse of Group VI in the reply filed on 6/23/09 is acknowledged. The traversal is on the ground(s) that Groups VI and VII are sufficiently linked and claim 59 is the method of use of the product recited in claim 48.

After reviewing the applicant's amendments filed 7/23/09 and corresponding arguments, the examiner has withdrawn the restriction applied to claim 58, Group VII. However, the arguments directed towards Group VIII are not persuasive because these claims can be performed by a materially different apparatus as is claimed in Groups VI and VII.

The requirement is still deemed proper and is therefore made FINAL.

### ***Specification***

The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

The following title is suggested: A label printer for printing different background colors and one text color.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 48, 49, 51-53, 57 and 58 are rejected under 35 U.S.C. 102(b) as being anticipated by Ishigouoka et al. (6,146,035).

With respect to claim 48, Ishigouoka et al. teaches in Fig. 1 a label printer for printing, said label printer comprising at least one print head, 1a, for printing an image, A; and a cutter, 6, arranged to provide a cut, C1 and C2, on either side of a region, L4, between first and second labels, defined by L2, as seen in Fig 10 wherein said first and second backgrounds of the image printed meet within the region, L4. Note the language directed towards the label and what is printed on the label is not part of the claimed combination of a label printer, but rather reads as intended use of the label printer. Therefore, the language regarding the label and its background has been interpreted has functional language where the taught structure above is capable of performing.

With respect to claim 49, Ishigouoka et al. teaches in Fig. 1 a label printer for printing wherein the at least one print head, 1a, is arranged to print information, i.e. 311 and 312, on said region, L4, between said first and second labels.

With respect to claim 51, Ishigouoka et al. teaches in Fig. 1 a label printer for printing wherein at least one of said cuts is a full cut.

With respect to claim 52, Ishigouoka et al. teaches in Fig. 1 a label printer for printing comprising a reverser, i.e. controller, arranged to reverse an image receiving material, 3a, on which the labels are capable of being arranged to be printed, Col. 12 lines 25-33.

With respect to claim 53, Ishigouoka et al. teaches in Fig. 1 a label printer for printing wherein said reverser, i.e. controller, is arranged to reverse the image receiving medium, 3a, from the cutter, 6, once cutter cuts at C2, to said at least one print head, 1a, Col. 7 lines 16-35.

With respect to claim 57, Ishigouoka et al. teaches in Fig. 1 a label printer for printing wherein the at least one print head, 1a, is arranged to print backgrounds on said first and second labels in different colors insofar as what is structurally recited.

With respect to claim 58, Ishigouoka et al. teaches in Fig. 1 a label printer for printing, said label printer comprising at least one print head, 1a, for printing on a tape, 3a, a first image for a first label and a second different image for a second label, said first and second labels being adjacent; and a cutter, 6, arranged to provide a cut, C1 and C2, on either side of a region, L4, between first and second labels, defined by L2, as seen in Fig 10 wherein said first and second backgrounds of the image printed meet within the region, L4. Note the language directed towards the label and what is printed on the label is not part of the claimed combination of a label printer, but rather reads as

intended use of the label printer. Therefore, the language regarding the label and its background has been interpreted has functional language where the taught structure above is capable of performing.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 50 and 54 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ishigouoka et al. (6,146,035) in view of Konishi et al. (2002/0085870).

With respect to claims 50 and 54, Ishigouoka et al. teaches all that is claimed in the above rejection of claim 48, including at least one of said at least one print head, 1a, is arranged to start printing an image on said image receiving medium, 3a, on one side of cut provided by said cutter, 6, and to continue printing on the other side of said cut once the image receiving medium is feed to the print head, 1a. However, Ishigouoka et al. fails to teach the cut being partial.

Konishi et al. teaches a label printer similar to the printer taught by Ishigouoka et al. where the tape is partially cut, paragraph 66. Because both Ishigouoka et al. and Konishi et al. teach cutting means for cutting a tape like web, it would have been obvious to one of ordinary skill in the art at the time of invention to substitute one cutting

means with another to achieve the predictable results of cutting a tape like material according the desired sized.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MATTHEW G. MARINI whose telephone number is (571)272-2676. The examiner can normally be reached on Monday-Friday 8:00 to 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Judy Nguyen can be reached on (571)-272-2258. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Matthew Marini  
10/16/09

/Judy Nguyen/  
Supervisory Patent Examiner, Art Unit 2854